

REMARKS

Upon entry of this amendment, claims 1 and 2 are pending. Claims 1 and 2 have been amended. Reconsideration of this application is respectfully requested.

In the Office Action mailed November 30, 2004, the examiner:

- objected to the use of “Java” in the specification, abstract and claims without identifying it as a trademark;
- rejected claim 1 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0104071A1 to Charisius (“the Charisius application”);
- rejected claim 2 under 35 U.S.C. § 103(a) as being unpatentable over the Charisius application in view of U.S. Patent Application Publication No. 2003/0065827A1 to Skufca (“the Skufca application”).

Objections

To comply with the examiner’s suggestion, the specification, abstract, and claims have been generally amended to identify the terms Java, Enterprise Javabeans, EJP and J2EE as trademarks. A substitute specification incorporating these amendments is attached hereto, as is a replacement abstract.

Rejections

35 U.S.C. § 102(e)

Claim 1 stands rejected under 35 U.S.C. § 102(e) as anticipated by the Charisius application.

Independent claim 1 recites

“A method for operating a command and control system, said method comprising the steps of:
 providing a track management system and sensors;
 providing a Commercial Off-the-Shelf (COTS) application server capable of receiving data in a JAVA TWO ENTERPRISE EDITION

(J2EE) compliant protocol;
generating data representing target information from at least said sensors, and communicating said data to said COTS application server in the form of a J2EE compliant protocol;
providing a plurality of computer processing arrangements, each of which is capable of processing JAVA;
in said application server, processing said J2EE compliant data with a plurality of ENTERPRISE JAVABEANS software components, establishing those of said computer processing arrangements in which said data is processed;
providing said J2EE compliant data to the selected ones of said computer processing arrangements, for thereby generating processed data;
and
providing said processed data to a user.”

Claim 1 is not anticipated by the Charisius application because that reference fails to disclose, either explicitly or inherently, “[a] method for operating a command and control system, said method comprising the steps of: providing a track management system and sensors; providing a Commercial Off-the-Shelf (COTS) application server capable of receiving data in a JAVA TWO ENTERPRISE EDITION (J2EE) compliant protocol; generating data representing target information from at least said sensors, and communicating said data to said COTS application server in the form of a J2EE compliant protocol,” as required by claim 1. Rather, the Charisius application discloses a software development tool, (see the Charisius application, p.6, paragraph 0112).

Thus, because the Charisius application does not disclose every limitation of claim 1, applicant requests the 35 U.S.C. § 102(e) rejection of this claim be withdrawn, and that claim 1 be allowed.

35 U.S.C. § 103(a)

Claim 2 stands rejected under 35 U.S.C. § 103(a) as unpatentable over the Charisius application in view of the Skufca application.

Independent claim 2 recites:

”A method for operating a command and control system, said method comprising the steps of:

providing a track management system and sensors;
providing a Commercial Off-the-Shelf (COTS) application server arrangement capable of receiving data in a JAVA TWO ENTERPRISE EDITION (J2EE) compliant protocol;
generating data representing target information from at least said sensors, and communicating said data to said COTS application server in the form of a J2EE compliant protocol;
providing a computer processing arrangement which is capable of processing J2EE compliant software components;
in said application server arrangement, processing said J2EE compliant data with one of (a) an ENTERPRISE JAVABEANS software component arrangement and (b) a Common Object Request Broker Architecture (CORBA) software component arrangement to establish those of said computer processing arrangements in which said data is processed;
providing said J2EE compliant data to the selected ones of said computer processing arrangements, for thereby generating processed data;
and
providing said processed data to a user.”

Claim 2 is patentable over the Charisius and Skufca applications because these references, either alone or in any combination, fail to disclose, teach or suggest “providing a track management system and sensors; providing a Commercial Off-the-Shelf (COTS) application server arrangement capable of receiving data in a JAVA TWO ENTERPRISE EDITION (J2EE) compliant protocol; generating data representing target information from at least said sensors, and communicating said data to said COTS application server in the form of a J2EE compliant protocol...,” as required by claim 2.

Rather, the Charisius application discloses a software development tool. (*See* the Charisius application, p.6, paragraph 0112). The Skufca application does not remedy this deficiency but rather discloses a transaction processing platform that connects online web-based application to back office enterprise systems. (*See* the Skufca application, p. 1, paragraph 0006, lines 1-3).

In view of the foregoing, withdrawal of the 35 U.S.C. § 103(a) rejection of claim 2 is respectfully requested.

Lack of Motivation to Combine

Notwithstanding the fact that the Charisius and Skufca applications, even if combined, fail to arrive at the invention of claim 2, the examiner has failed to adduce a proper motivation to combine the two references. In order for a claimed invention to be *prima facie* obvious, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine teachings. See *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992); *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). The examiner states that “[t]he modification would have been obvious because one of ordinary skill in the art would have been motivated to do so that it would enhance the Charisius teachings and/or system with a more versatile tool for covering all of the components based.” (See Detailed Action, p. 7, lines 13-16). But the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 f2d 680 (Fed. Cir. 1990). The examiner has not identified the motivation within either reference that would support their combination. Thus, withdrawal of this rejection is respectfully requested.

Favorable reconsideration of this application is respectfully requested as it is believed that all outstanding issues have been addressed herein and, further, that claims 1 and 2 are in condition for allowance, early notification of which is earnestly solicited. Should there be any questions or matters whose resolution may be advanced by a telephone call, the examiner is cordially invited to contact applicant’s undersigned attorney at his number listed below.

The Commissioner is hereby authorized to charge payment of any required fees, which are associated with this communication, or credit any overpayment to Deposit Account No. 50-2061.

Respectfully submitted,



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